

**TOWN OF SOUTH BETHANY
TOWN COUNCIL REGULAR MEETING MINUTES
December 10, 2021
10:00 A.M.**

Meeting Called to Order and Pledge of Allegiance

Mayor Saxton called the December 10, 2021, Town Council Regular Meeting to order at 10:00 a.m. followed by the Pledge of Allegiance to the Flag.

Attendance and Absences

In attendance were Mayor Tim Saxton and Councilmembers Randall Bartholomew, Sue Callaway, Edie Dondero, Dick Oliver, Tim Shaw; and Town Manager, Maureen Hartman, Administrative Specialist, Janet Powell; and Chief Jason Lovins. Councilman Abbott attended remotely. Public attendees: 11; remote attendees: 11.

Mayor Saxton requested to move Agenda Item #10 "Review, discussion, and possible action on a letter from the Town of Bethany Beach regarding the reduction of speed on Route 1" after Adoption of Minutes so Councilman Abbott could participate since he would be leaving during the meeting. Motion by Councilman Oliver, seconded by Councilwoman Dondero to move Agenda Item #10 after Adoption of Minutes. Motion carried 7-0.

Public Comment

Kent Stephen, 46 S Anchorage Drive, questioned Ordinance 205-21 on today's agenda and commented that the Town should consider the expenses regarding sea level rise projects.

Bill Beckett, 43 S Anchorage Drive, received the Town Right of Way Specification Code letter and presented a proposal to Council to add "Limited Permissive Use of Town Rights of Way" to the Town Code.

Tom Petti, 63 S Anchorage Drive, received the Town Right of Way Specification Code letter and suggested Council consider Mr. Beckett's proposal.

Neil Lang, 39 S Anchorage Drive, received the Town Right of Way Specification Code letter and suggested Council consider Mr. Beckett's proposal.

Nancy Murrow, 30 S Anchorage Drive questioned the status of her request for additional streetlights on S Anchorage Drive.

Adoption of Minutes

Motion by Councilman Shaw, seconded by Councilwoman Callaway to adopt the November 12, 2021 Town Council Regular meeting minutes. Councilman Abbott noted a correction in the minutes, motion by Councilman Shaw, seconded by Councilman Oliver to approve the amended November 12, 2021 Town Council meeting minutes. Motion carried 6-0, Councilman Abbott abstained due to his absence at the November 12th meeting.

Review, discussion, and possible action on a letter from the Town of Bethany Beach regarding the reduction of speed on Route 1

Mayor Saxton received requests from Councilmembers to reinstate the discussion and possible action to reduce the speed on Route 1 due to confusion during the previous vote. Motion by

Councilwoman Dondero, seconded by Councilman Abbott, to recommend lowering the speed limit year-round. Motion carried 5-2, Councilmembers Bartholomew and Oliver dissenting, indicating that both Councilmembers would have agreed to lowering the speed limit in the summer season only.

Resolution 08-21 review and possible action to approve the Mediacom Agreement for the Town of South Bethany

Motion by Councilwoman Callaway, seconded by Councilman Oliver to approve Resolution 08-21 Mediacom Agreement for the Town of South Bethany. Motion carried 7-0.

Possible action to accept the Budget & Finance Committee's recommendation for the reallocation of the reserve to various categories

Councilman Bartholomew stated that the Budget & Finance Committee recommended the allocation of the Reserve Funds as of April 30th, 2021, into three categories: General, Realty Transfer Tax, and Municipal Street Aid. Motion by Councilman Bartholomew, seconded by Councilman Oliver to accept the allocation of the Reserve Funds. Motion carried 7-0.

Councilman Abbott left the meeting at 11:03 am.

Possible action to expend the funds for the CEC'S Little Library in the current fiscal year or include the funds in the FY23 Budget.

Councilwoman Callaway requested a budget amendment on the remaining FY22 CEC funds to replace the Little Free Libraries in the current FY budget. Motion by Councilwoman Dondero, seconded by Councilman Oliver to expend the funds for the CEC's Little Free Library in the current fiscal year. Motion carried 6-0.

Second Reading of Ordinance 204-21 to amend the Town of South Bethany Chapter 84, Article I, remove mercantile license "valid date" parameters set in section 84-2, (Scope) from the Code of South Bethany to allow the Town the flexibility of setting mercantile licenses dates; Article I, §84-4 removing reference to time periods in the license application; Article II, §84-13, remove the specific month of mail distribution of rental application forms to residents so said forms may be distributed earlier, and possible action to adopt ordinance

Councilman Shaw read the updated modifications to amend Chapter 84, striking §84-2 Scope A, B. and C and added clear definitions in §84-3 Definitions. §84-4 and §84-13 modifications remained as previously stated in the First Reading. Motion by Councilman Shaw, seconded by Councilman Oliver to adopt Ordinance 204-21 Motion carried 6-0.

First Reading of Ordinance 205-21 to amend the Town of South Bethany Chapter 145-14.3, "Ground covering allowed in setback area," Paragraph C, to permit the use of permeable pavers in the setback area and over the full width of the lot and eliminate a requirement to install conduit

Councilman Shaw noted modifications in §145-14.3C "Ground covering allowed in setback area" to permit the use of permeable pavers in the setback area and over the full width of the lot and eliminates a requirement to install conduit. Mayor Saxton declared the First Reading of Ordinance 205-21.

First Reading of Ordinance 206-21 to amend the Town of South Bethany Chapter 145-37 "Setback Requirements", to reference changes made herein to Chapter 145-38, "R-1 District west of Delaware Route 1"; and amends Chapter 145-38 "R-1 District west of Delaware Route 1" to permit specified construction of outdoor recreation areas in setback areas

Councilman Shaw noted modifications in §145-37.R-1 District east of Delaware Route 1, adding "N" and in §145-38.R-1 District west of Delaware Route No. 1 adding the description of N.

Notwithstanding other provisions of this article, outdoor recreation area, and open/exterior living areas (herein: outdoor recreation area) shall not be considered structures under the setback provisions of this article. Outdoor recreation areas include, but are not limited to, permanent or non-portable pergolas, outdoor kitchen, or food preparation areas, including grills or ovens, fireplaces or firepits, seating and lounge areas, hot tub/spas, and any other such permanent or non-portable item within an outdoor space designed and constructed in a fashion that would be generally recognized as being used for outdoor recreation of the occupants. Outdoor recreation areas shall comply with any applicable Sussex County building code provisions, and the following provisions.

- (1) No permanent or non-portable portion of the outdoor recreation area shall be closer than 5 feet to the adjoining property line and no closer than 3 feet to the outermost edge of the bulkhead (West of Route 1) or rear property line.
- (2) A detailed drawing shall be submitted as part of the permitting process identifying the layout, location of appliances, and location of other non-movable and permanent items.
- (3) No pergola shall be more than 12 feet high measured from ground, and no pergola shall have permanently affixed sides enclosing one or more sides. Pergolas are permitted to have draw shades attached, as to provide shade from the sun, as needed.
- (4) The chimney of any wood-burning fireplace or wood-burning oven shall not be higher 12 feet, measured from the ground.
- (5) Non-portable and permanent wood-burning fire pits may be incorporated into the design of the outdoor recreation area and shall be no closer than 5 feet to the primary residential structure. Fire pits shall not be used to burn trash or yard waste. Non-portable and permanent wood-burning fire pits shall be constructed of non-combustible material and shall have a wood-pit size no larger than 9 cubic feet as measured from the top surface of the fire pit (e.g., this is approximately a 40" round x 12" deep or 36" x 36" x 12" square fire pit).
- (6) All hot tubs/spas shall have a safety cover with a locking mechanism.

Councilmembers concurred "closer than 5 feet to the adjoining property line" and "no closer than 3 feet to the outermost edge of the bulkhead" is too close to neighboring property owners; and 12 feet is too high for pergolas, chimneys and firepit structures. Councilman Shaw will review the modifications with the Charter and Code Committee and resubmit. Mayor Saxton did not declare this the First Reading due to the request for modifications.

Comprehensive Plan 5-year Update presentation by Planning Commission Chair

Planning Commission Chairman Joe Conway presented a draft summary of the 5-year Update to the Comprehensive Plan. Mr. Conway noted the Comprehensive Plan background, the State of Delaware's Planning Department requirements for the annual review and Plan's 5-year update; the process and overview of updates; the PC survey, goals, and recommendations. Mayor Saxton stated the Council will review and discuss the draft summary at a later date.

Leadership Reports – Reports Posted Online

Mayor's Report – report submitted.
Town Manager Report – report submitted.
The Treasurer Report – report submitted.

Committee and Commission Reports – Reports Posted Online

The Budget and Finance Committee – report submitted.

Canal Water Quality Committee – no report.

Charter and Code Committee – report submitted.

Communications and Public Relations Committee – report submitted.

Community Enhancement Committee – report submitted. Councilwoman Callaway invited everyone to an informal dedication of a bench in honor of Flo and Ron Smith on Saturday, December 11th at 10:30 a.m. on Canal Drive.

Planning Commission – no report.

Bicycle & Pedestrian Safety Ad Hoc Committee – report submitted.

Adjournment

Motion by Councilman Oliver, seconded by Councilman Shaw to adjourn the December 10, 2021, Town Council Regular Meeting at 12:02 p.m. Motion carried 6-0.

Respectfully submitted,

Council Secretary

Administrative Specialist

Date of Approval